

executor of a will, or, when no executor has been named, to the court-appointed administrator of a will (the "administrator with will annexed").

GOVERNOR'S
REASONS
FOR VETO:

The Governor said extending the right to collect expenses and attorney's fees for defending or prosecuting a will could needlessly diminish the assets of an estate and would encourage unnecessary litigation.

SPONSOR'S
VIEW:

Rep. Wright said that the bill was intended to address situations in which the executor of an estate is not sufficiently vigorous in his or her duties with respect to a will. The bill would give the beneficiaries an opportunity to aggressively offer up the will, and receive expenses and fees for doing so. He said that current law discourages needless litigation by prohibiting payment of expenses and fees unless they were incurred in good faith and with just cause, and were reasonable and necessary. If a court awarded expenses and fees to a beneficiary, he said, it would most likely not make a similar award to the inactive executor, so that the assets of the estate would not be diminished. Rep. Wright said of the veto, "It is obvious that Mark White is no better a lawyer than he is a governor."

Lease-purchase acquisitions by school districts
(HB 741 by Tejeda)

DIGEST: The bill would have established a procedure for public participation in school-district decisions to lease improved district-owned property. Districts would have to have held public hearings before leasing property worth \$100,000 or more, and voters could have petitioned for an election to approve the lease of property for more than six years. An amendment added by the Senate would have given school districts the authority to acquire real or personal property by lease, installment purchase, or lease with an option to purchase.

GOVERNOR'S
REASONS
FOR VETO:

Lease-purchase agreements could be used to circumvent current laws requiring voter approval of bond issues to finance school districts' construction and acquisition

of facilities. Because the interest charged in lease-purchase agreements is generally higher than the interest paid on bond debt, the bill could result in greater costs to school districts.

SPONSOR'S

VIEW: Rep. Tejeda had no comment on the veto.

NOTES: The House Study Group analysis of HB 741 appeared in the May 8 Daily Floor Report.

Probate surrogates
(HB 748 by Wright)

DIGEST: HB 748 would have allowed each judge of a statutory probate court (other than those in Galveston County) to appoint a person to act as probate surrogate for the court. The surrogate was to have all the powers and duties of the appointing judge. The appointing judge would have had to reject or confirm all orders, judgements, and decrees of the probate surrogate. The surrogate's salary would have been set by the appointing judge but could not have exceeded the appointing judge's salary. With the commissioners court's approval, the surrogate's salary would have been paid by the county.

GOVERNOR'S
REASONS
FOR VETO:

The Governor said the bill represented an unconstitutional delegation of judicial power and responsibilities because it would have permitted the exercise of judicial functions by an individual neither elected nor appointed in accord with the Constitution.

SPONSOR'S
VIEW:

Rep. Wright said that the Governor was mistaken about the constitutionality of the probate surrogates authorized in the bill. If they would be unconstitutional then the the masters who have performed a similar function for years in family courts are unconstitutional as well. He said the surrogates would have served as staff for the judge but would have rendered no decision not specifically ratified or rejected by order of the judge. Rep. Wright estimated the total cost of an appointed surrogate at \$75,000 to \$80,000 and the cost of a new county court at about \$1 million. Thus the bill would have saved Harris County hundreds of thousands of dollars, he said. He noted that the bill had support from the State Bar of Texas